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**FILED**

Date 11/4/14 By

*Susan Saylor*

8 **BEFORE THE**  
9 **STRUCTURAL PEST CONTROL BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2015-28

12 **RELIABLE TERMITE CONTROL,**  
13 **SPENCER DAVID ALLEN, Owner and Qualifying Manager**  
14 **PO Box 668**  
15 **Duarte, CA 91009**  
16 **and**  
17 **1432 West 3rd Street**  
18 **Duarte, CA 91010**

**ACCUSATION**

16 Company Registration Certificate No. PR 5413, Branch 3,

17 **and**

18 **SPENCER DAVID ALLEN**  
19 **1432 West 3rd Street**  
20 **Duarte, CA 91010**

20 Operator License No. OPR 11055, Branch 3,

21 Respondents.

22  
23  
24 Complainant alleges:

25 **PARTIES**

26 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as the  
27 Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer Affairs  
28 (Board).

1       **License Histories**

2       **Reliable Termite Control – Company Registration Certificate No. PR 5413**

3       2.     On or about August 21, 2007, the Board issued Company Registration Certificate  
4     No. PR 5413 (certificate) in Branch 3, termite control, to Reliable Termite Control with Spencer  
5     David Allen as Owner and Qualifying Manager (Respondent Reliable Termite).

6       **Spencer David Allen - Operator License No. OPR 11055**

7       3.     On or about March 22, 2005, the Board issued Operator License No. OPR 11055  
8     (license) in Branch 3, termite control, to Spencer David Allen (Respondent Allen), employee of  
9     Foss Termite Control Inc. On June 16, 2005, the license reflected employment with Y 2 K  
10    Exterminating. On July 6, 2005, the license disassociated from Y 2 K Exterminating and was  
11    placed on inactive status. On December 20, 2005, the license was associated with Reliable  
12    Termite Control, a partnership. On August 21, 2007, the license was associated with Reliable  
13    Termite Control, a sole proprietorship. The Operator License was in full force and effect at all  
14    times relevant to the charges brought herein and will expire on June 30, 2016, unless renewed.

15       **Related Prior Company Registration**

16       4.     On December 20, 2005, the Board issued Company Registration Certificate  
17    No. PR 4937 in Branch 3 to Reliable Termite Control with Spencer David Allen and Tammie L.  
18    Allen as Partners and Spencer David Allen as Qualifying Manager. The Company Registration  
19    was canceled on August 21, 2007 due to re-registration as a sole ownership.

20       **Related Prior Field Representative License(s)**

21       5.     On February 20, 1996, the Board issued Field Representative's License  
22    No. FR 25790 in Branch 3 to Spencer David Allen as an employee of Western Empire Termite and  
23    Pest Control. On June 30, 1998, the Field Representative's License was cancelled.

24       6.     On January 24, 2002, the Board issued Field Representative's License No. FR 34187  
25    as inactive in Branch 3 to Spencer D. Allen. On March 18, 2002, through November 25, 2003, the  
26    Field Representative's License reflected employment with Morgan Termite Control, Inc. On  
27    December 1, 2003, through May 25, 2004, the Field Representative's License reflected  
28    employment with Century Termite Control. On May 25, 2004, the Field Representative's License

1 was placed on inactive status, and on March 22, 2005, was cancelled due to the issuance of an  
2 Operator's License.

### 3 JURISDICTION

4 7. This Accusation is brought before the Board, under the authority of the following  
5 laws. All section references are to the Business and Professions Code unless otherwise indicated.

6 8. Section 8620 provides that the Board may suspend or revoke a license when it finds  
7 that the holder, while a licensee or applicant, has committed any acts or omissions constituting  
8 cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

9 9. Section 8625 states:

10 "The lapsing or suspension of a license or company registration by operation of law or by  
11 order or decision of the board or a court of law, or the voluntary surrender of a license or  
12 company registration shall not deprive the board of jurisdiction to proceed with any investigation  
of or action or disciplinary proceeding against such licensee or company, or to render a decision  
suspending or revoking such license or registration."

### 13 STATUTORY PROVISIONS

14 10. Section 8516 states, in pertinent part:

15 (a) This section, and Section 8519, apply only to wood destroying pests or  
16 organisms.

17 (b) No registered company or licensee shall commence work on a contract, or sign,  
18 issue, or deliver any documents expressing an opinion or statement relating to the absence  
19 or presence of wood destroying pests or organisms until an inspection has been made by a  
20 licensed Branch 3 field representative or operator. The address of each property inspected  
or upon which work is completed shall be reported on a form prescribed by the board and  
shall be filed with the board no later than 10 business days after the commencement of an  
inspection or upon completed work.

21 Every property inspected pursuant to subdivision or Section 8518 shall be assessed a  
filing fee pursuant to Section 8674.

22 Failure of a registered company to report and file with the board the address of any  
23 property inspected or work completed pursuant to Section 8518 or this section is grounds  
24 for disciplinary action and shall subject the registered company to a fine of not more than  
two thousand five hundred dollars (\$2,500).

25 A written inspection report conforming to this section and on a form approved by the  
26 board shall be prepared and delivered to the person requesting the inspection or to the  
27 person's designated agent within 10 business days of the inspection, except that an  
28 inspection report prepared for use by an attorney for litigation purposes is not required to be  
reported to the board. The report shall be delivered before work is commenced on any  
property. The registered company shall retain for three years all original inspection reports,  
field notes, and activity forms.

1 Reports shall be made available for inspection and reproduction to the executive  
2 officer of the board or his or her duly authorized representative during business hours.  
3 Original inspection reports or copies thereof shall be submitted to the board upon request  
4 within two business days. The following shall be set forth in the report:

5 (1) The date of the inspection and the name of the licensed field representative or  
6 operator making the inspection.

7 . . . .

8 (6) A foundation diagram or sketch of the structure or structures or portions of the  
9 structure or structures inspected, indicating thereon the approximate location of any infested  
10 or infected areas evident, and the parts of the structure where conditions that would  
11 ordinarily subject those parts to attack by wood destroying pests or organisms exist.

12 (7) Information regarding the substructure, foundation walls and footings, porches,  
13 patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves,  
14 rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other  
15 parts subject to attack by wood destroying pests or organisms. Conditions usually deemed  
16 likely to lead to infestation or infection, such as earth-wood contacts, excessive cellulose  
17 debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and  
18 insufficient ventilation are to be reported.

19 . . . .

20 (10) Recommendations for corrective measures.

21 . . . .

22 (c) At the time a report is ordered, the registered company or licensee shall inform  
23 the person or entity ordering the report, that a separated report is available pursuant to this  
24 subdivision. If a separated report is requested at the time the inspection report is ordered,  
25 the registered company or licensee shall separately identify on the report each  
26 recommendation for corrective measures as follows: . . .

27 11. Section 8518 states:

28 When a registered company completes work under a contract, it shall prepare, on a  
form prescribed by the board, a notice of work completed and not completed, and shall  
furnish that notice to the owner of the property or the owner's agent within 10 working days  
after completing the work. The notice shall include a statement of the cost of the completed  
work and estimated cost of work not completed.

The address of each property inspected or upon which work was completed shall be  
reported on a form prescribed by the board and shall be filed with the board no later than 10  
working days after completed work.

Every property upon which work is completed shall be assessed a filing fee pursuant  
to Section 8674.

Failure of a registered company to report and file with the board the address of any  
property upon which work was completed pursuant to subdivision(b) of Section 8516,  
subdivision (b) of Section 8516 or Section 8518 is grounds for disciplinary action and shall  
subject the registered company to a fine of not more than two thousand five hundred dollars  
(\$2,500).

1 The registered company shall retain for three years all original notices of work  
2 completed, work not completed, and activity forms.

3 Notices of work completed and not completed shall be made available for inspection  
4 and reproduction to the executive officer of the board or his or her duly authorized  
5 representative during business hours. Original notices of work completed or not completed  
6 or copies thereof shall be submitted to the board upon request within two business days.

7 12. Section 8619 states:

8 (a) An inspection tag shall be posted whenever an inspection for wood destroying  
9 pests or organisms is made.

10 (b) If the registered company completes any work with respect to wood destroying  
11 pests or organisms, it shall post a completion tag next to the inspection tag.

12 13. Section 8635 states that "[d]eparture from, or disregard of, plans or specifications in  
13 the performance of structural pest control work in any material respect, without consent of the  
14 owner or his duly authorized representative, is a ground for disciplinary action."

15 14. Section 8638 states that "[f]ailure on the part of a registered company to complete any  
16 operation or construction repairs for the price stated in the contract for such operation or  
17 construction repairs or in any modification of such contract is a ground for disciplinary action."

18 15. Section 8641 states:

19 Failure to comply with the provisions of this chapter, or any rule or regulation adopted  
20 by the board, or the furnishing of a report of inspection without the making of a bona fide  
21 inspection of the premises for wood destroying pests or organisms, or furnishing a notice of  
22 work completed prior to the completion of the work specified in the contract, is a ground  
23 for disciplinary action.

## 24 REGULATORY PROVISIONS

25 16. California Code of Regulations, title 16 (CCR), section 1937.14 states:

26 All work completed by licensees or registered companies shall be done within the  
27 specific requirements of any plans or specifications and shall meet accepted trade standards  
28 for good and workmanlike construction in any material respect, and shall comply with  
provisions of Section 2516(c)(1), (2), (4) and (6) of Title 24, California Code of  
Regulations.

17. CCR section 1990 states, in pertinent part:

(a) All reports shall be completed as prescribed by the board. Copies filed with the  
board shall be clear and legible. All reports must supply the information required by Section  
8516 of the Code and the information regarding the pesticide or pesticides used as set forth  
in Section 8538 of the Code, and shall contain or describe the following:

1                   .....

2                   (3) Infestations, infections or evidence thereof.

3                   (4) Wood members found to be damaged by wood destroying pests or  
4 organisms.

5                   (b) Conditions usually deemed likely to lead to infestation or infection include, but  
6 are not limited to:

7                   .....

8                   (3) Excessive Cellulose Debris. This is defined as any cellulose debris of a size  
9 that can be raked or larger. Stumps and wood imbedded in footings in earth contact  
10 shall be reported.

11                   .....

12                   (5) Commonly controllable moisture conditions which would foster the growth  
13 of a fungus infection materially damaging to woodwork.

14                   .....

15                   (d) Even though the licensee may consider the following areas inaccessible for  
16 purposes of inspection, the licensee must state specifically which of these areas or any other  
17 areas were not inspected and why the inspection of these areas is not practical: furnished  
18 interiors; inaccessible attics or portions thereof; the interior of hollow walls; spaces between  
19 a floor or porch deck and the ceiling or soffit below; stall showers over finished ceilings;  
20 such structural segments as porte cocheres, enclosed bay windows, buttresses, and similar  
21 areas to which there is no access without defacing or tearing out lumber, masonry or  
22 finished work; built-in cabinet work; floors beneath coverings, areas where storage  
23 conditions or locks make inspection impracticable.

24                   (e) Information regarding all accessible areas of the structure including but not  
25 limited to the substructure, foundation walls and footings, porches, patios and steps,  
26 stairways, air vents, abutments, stucco walls, columns, attached structures or other parts of  
27 a structure normally subject to attack by wood-destroying pests or organisms.

28                   (f) The following language shall appear just prior to the first  
finding/recommendation on each separated report:

                  'This is a separated report which is defined as Section I/Section II conditions  
evident on the date of the inspection. Section I contains items where there is visible  
evidence of active infestation, infection or conditions that have resulted in or from  
infestation of infection. Section II items are conditions deemed likely to lead to  
infestation or infection but where no visible evidence of such was found. Further  
inspection items are defined as recommendations to inspect area(s) which during the  
original inspection did not allow the inspector access to complete the inspection and  
cannot be defined as Section I or Section II.'

                  .....

18. CCR section 1991 states, in pertinent part:

(a) Recommendations for corrective measures for the conditions found shall be

made as required by paragraph 10 of subdivision (b) of Section 8516 of the code and shall also conform with the provisions of Title 24 of the California Code of Regulations and any other applicable local building code, and shall accomplish the following:

....

(5) Structural members which appear to be structurally weakened by wood-destroying pests to the point where they no longer serve their intended purpose shall be replaced or reinforced. Structural members which are structurally weakened by fungus to the point where they no longer serve their intended purpose shall be removed or, if feasible, may remain in place if another structural member is installed adjacent to it to perform the same function, if both members are dry (below 20% moisture content), and if the excessive moisture condition responsible for the fungus damage is corrected. Structural members which appear to have only surface fungus damage may be chemically treated and/or left as is if, in the opinion of the inspector, the structural member will continue to perform its originally intended function and if correcting the excessive moisture condition will stop the further expansion of the fungus.

....

(8) Exterminate all reported wood-destroying pests. Such extermination shall not be considered repair under section 8516(b)(12) of the code. If evidence indicates that wood-destroying pests extend into an inaccessible area(s), recommendation shall be made to either:

....

19. CCR section 1993 states, in pertinent part:

All of the following reports must be in compliance with the requirements of Section 8516 of the code. All reports must be on the form prescribed by the board.

....

(d) A supplemental report is the report on the inspection performed on inaccessible areas that have been made accessible as recommended on a previous report. Such report shall indicate the absence or presence of wood-destroying pests or organisms or conditions conducive thereto. This report can also be used to correct, add, or modify information in a previous report. A licensed operator or field representative shall refer to the original report in such a manner to identify it clearly.

(e) A reinspection report is the report on the inspections of items) completed as recommended on an original report or subsequent reports). The areas reinspected can be limited to the items requested by the person ordering the original inspection report. A licensed operator or field representative shall refer to the original report in such a manner to identify it clearly.

20. CCR section 1996.1, subdivision (c), states that "[t]he inspection report shall indicate the location of the inspection tag. The inspection report must also indicate the presence of any other inspection or fumigation tag that is less than two years old and any similar completion tag. A registered company shall not remove any tag.

1 21. CCR section 1996.2, states:

2 A written standard notice of work completed and not completed form conforming to  
3 section 8518 of the code and Form No. 43M-44 (Rev. 10/01, required use effective July 1,  
2003) found at the end of this section shall be prepared and filed with the board.

4 Standard Notice of Work Completed and Not Completed

5 Building No. Street City Zip Date of Completion

6  
7 Ordered By: Property Owner and/or Party of Interest: Completion Sent to:

8 The following recommendations on the above designated property, as outlined in  
9 Wood Destroying Pests and Organisms Inspection Report date have been and/or  
have not been completed.

10 Recommendations completed by this firm that are in accordance with the  
11 Structural Pest Control Board's Rules and Regulations:

12 Recommendations completed by this firm that are considered secondary and  
13 substandard measures under Section 1992 of the Structural Pest Control Board's  
Rules and Regulations including person requesting secondary measure:

14 Cost of work completed: Cost: \$  
15 Inspection Fee: \$  
Other: \$  
Total \$

16 Recommendations not completed by this firm:

17 Estimated Cost \$

18 Remarks:

19 Signature

20 You are entitled to obtain copies of all reports and completion notices on this  
21 property reported to the Structural Pest Control Board during the preceding two  
22 years. To obtain copies contact: Structural Pest Control Board, 2005 Evergreen  
Street, Suite 1500, Sacramento, California 95815.

23 NOTE: Questions or problems concerning the above report should be directed  
24 to the manager of this company. Unresolved questions or problems with services  
performed may be directed to the Structural Pest Control Board at (916)561-8708,  
(800) 737-8188 or [www.pestboard.ca.gov](http://www.pestboard.ca.gov). 43N-44(Rev. 10/01)

25 22. CCR section 1996.3 states, in pertinent part:

26 (a) The address of each property inspected and/or upon which work was completed  
27 shall be reported on a form prescribed by the Board and designated as the WDO Inspection  
28 and Completion Activity Report Form (see Form No. 43M-52 Rev. 5/09) at the end of this  
section. This form shall be prepared by each registered company and shall comply with all of  
the requirements pursuant to Section 8516(b), and 8518.



1 (b) The form shall contain the following information for each property inspected  
2 and/or upon which work was completed.

3 . . . .

4 (4) Date of Activity

5 . . . .

6 (c) Failure of a registered company to report and file with the Board the address of  
7 any property inspected or upon which work was completed pursuant to Section 8516(b) or  
8 8518 are grounds for disciplinary action and subject to a fine of not more than two thousand  
9 five hundred dollars (\$ 2,500).

### 10 COST RECOVERY / RESTITUTION

11 23. Section 125.3 states that a Board may request the administrative law judge to direct a  
12 licensee found to have committed a violation or violations of the licensing act to pay a sum not to  
13 exceed the reasonable costs of the investigation and enforcement of the case.

14 24. Government Code section 11519, subdivision (d), provides that the Board may require  
15 restitution of damages suffered as a condition of probation in the event probation is ordered.

### 16 1014 SOUTH SHASTA STREET, WEST COVINA, CALIFORNIA

17 25. On or about August 13, 2013, Respondents inspected the property located at 1014  
18 South Shasta Street, West Covina, California (property), at the request of J.S., S. Realtors,  
19 property owner, for escrow purposes. That same day, Respondents issued a "complete,"  
20 "separated" Wood Destroying Pest and Organisms Inspection Report, erroneously dated August  
21 13, 2012 (inspection report). Respondents reported finding drywood termites, fungus/dryrot and  
22 other findings. Respondent Reliable Termite's owner and qualifying manager, Respondent Allen,  
23 performed the wood-destroying organisms (WDO) inspection and prepared the inspection report.  
24 The inspection report contained nine (9) findings, eleven (11) recommendations and numerous  
25 notes. Respondents recommended a) fumigating the structure, b) to remove and/or replace  
26 and/or cut-out reported drywood termite damage at the patio and eave framing, c) to remove  
27 and/or replace the decay fungi damage at the eave framing, and d) for the owner to have a  
28 licensed plumber address the excessive moisture condition in the substructure.

26. On or about August 21, 2013, Respondents' Work Authorization Contract

1 (authorization) for the property was signed authorizing the completion of Section I  
2 recommendations for \$3,400.00 and did not include Section II recommendations.

3 27. On or about August 30, 2013, Respondents issued a Standard Notice of Work  
4 Completed and Not Completed report (completion notice) on the property. The completion notice  
5 certified recommendations 2A, 2B, 2C, 2D, 2E, 3A and 3B, on the August 13, 2012, "complete,"  
6 "separated" inspection report had been completed, and 4A had been completed by others without  
7 the issuing of a "reinspection" inspection report.

8 28. On or about September 3, 2013, at the request of the property owner, Respondents  
9 issued a "supplemental," "separated" inspection report on the property with a Section I finding of  
10 2C recommendation to remove and/or replace the damaged patio framing header beam with a cost  
11 of \$1,000.00. Section 1 finding 2C was previously included in the August 13, 2013 inspection  
12 report, and certified "complete" on the completion notice dated August 30, 2013.

13 29. On or about September 4, 2013, escrow closed on the incident address.

14 30. On or about November 15, 2013, a complaint was filed with the Board.

15 31. On or about February 24, 2014, a specialist from the Board reinspected the property  
16 with the new property owner T.F, and found and photographed the following conditions, which he  
17 set forth in his field work sheet:

- 18 1) Cellulose debris in the substructure.
- 19 2) Form board inside the substructure.
- 20 3) Evidence of drywood termites in the substructure.
- 21 4) Drywood termite damage in the substructure.
- 22 5) Evidence of an excessive moisture condition (water stains) in the substructure.
- 23 6) Evidence of an excessive moisture condition (plumbing leak) in the substructure.
- 24 7) Leakage at the stall shower pan.
- 25 8) Evidence of an excessive moisture condition (deteriorating foundation) in the  
26 substructure.
- 27 9) Evidence of drywood termites in the attic.
- 28 10) Drywood termite damage in the attic.

- 11) A fumigation tag in the attic from Otto Exterminating, for the subject company, dated 8/27/13.
- 12) Evidence of drywood termites in the garage.
- 13) Drywood termite damage in and at the garage.
- 14) Decay fungi damage at the garage.
- 15) Evidence of an excessive moisture condition at the garage.
- 16) An inaccessible area at the garage eaves.
- 17) The garage walls are covered.
- 18) Repair work completed, but not completed as recommended or in a good and workmanlike manner, at the garage.
- 19) Evidence of drywood termites at the covered patio.
- 20) Drywood termite damage at the covered patio.
- 21) Evidence of an excessive moisture condition (water stains) at the covered patio.
- 22) Decay fungi damage at the covered patio.
- 23) Evidence of drywood termites at the Jacuzzi below the covered patio.
- 24) Drywood termite damage at the Jacuzzi below the covered patio.
- 25) Decay fungi damage at the enclosed patio.
- 26) Evidence of drywood termites at the enclosed patio.
- 27) Drywood termite damage at the enclosed patio.
- 28) An inaccessible are (boxed eaves) at the enclosed patio.
- 29) The patio on the south side of the house had been removed, but the holes in the stucco were not patched.
- 30) Evidence of drywood termites at the exterior framing and eaves on the house, some of which is adjacent to completed repairs.
- 31) Drywood termite damage at the exterior framing and eaves on the house some of which is adjacent to completed repairs.
- 32) Decay fungi damage at the exterior framing on the house.
- 33) Evidence of an excessive moisture condition (water damage) at the exterior

1 framing on the house.

2 34) Evidence of an excessive moisture condition (water stains) in the water heater  
3 cabinet.

4 35) An inaccessible attic area at the water heater cabinet, adjacent to completed  
5 repairs.

6 36) Substandard repair work completed at the water heater cabinet.

7 37) Evidence of subterranean termites in the house eaves.

8 38) Subterranean termite damage in the house eaves.

9 32. On or about March 7, 2014, a Report of Findings (ROF) on the property with  
10 thirty-five (35) violations was mailed to Respondents.

11 33. On or about March 24, 2104, Respondents issued a "complete," "separated" Wood  
12 Destroying Pest and Organisms Inspection Report with eighteen (18) findings, twenty-three (23)  
13 recommendations, and seven (7) notes. The report failed to be in compliance with the ROF, as  
14 follows:

15 1) It incorrectly categorized the reported cellulose debris in the substructure as a  
16 Section I finding and recommendation, instead of Section II.

17 2) It incorrectly categorized the reported form boards in the substructure as a  
18 Section I finding and recommendation, instead of Section II.

19 3) It incorrectly categorized the reported plumbing leak in the substructure as a  
20 Section I finding and recommendation, instead of Section II.

21 4) It incorrectly categorized the reported excessive moisture condition in the  
22 substructure as a Section I finding and recommendation, instead of Section II.

23 5) It incorrectly categorized the stall shower pan leak, as a Section I finding and  
24 recommendation, instead of Section II.

25 6) Instead of recommending trying to match the tile, regarding the stall shower pan  
26 replacement, which is required, it was recommended to replace the tile with a  
27 standard grade tile.

28 7) It failed to report the full extent of the evidence of drywood termites and

drywood termite damage in the attic.

- 8) If failed to report the evidence of drywood termites, drywood termite damage and decay fungi damage at a garage door jamb.
- 9) It failed to report the substandard repair work completed at the garage eaves.
- 10) It failed to report the inaccessible area at the garage eaves.
- 11) It failed to report the decay fungi damage at the covered patio ledger.
- 12) It failed to report the evidence of drywood termites, responsible for the reported drywood termite damage, at the Jacuzzi under the covered patio.
- 13) It failed to report the evidence of drywood termites and drywood termite damage at the water heater cabinet roofing.
- 14) It failed to report the substandard repair work completed at the water heater cabinet.
- 15) It failed to report the decay fungi damage at the exterior wood trim, adjacent to the French doors.
- 16) It failed to report the evidence of subterranean termites and subterranean termite damage in the house eaves.
- 17) It failed to report the full extent of the evidence of drywood termites and drywood termite damage in the house and garage eaves.
- 18) Instead of recommending the reported termite and decay fungi damage be replaced with like-for-like materials, which is required, it was recommended the damage be replaced with todays available materials.
- 19) The decay fungi damage findings failed to identify the excessive moisture condition responsible for the infections, and the recommendations failed to include a recommendation to correct the excessive moisture condition responsible for the infections.

///

34. On or about March 26, 2014, Respondents issued a revised copy of its 3/24/2014 "complete," "separated" inspection report, was still not in compliance for the following reasons:

- 1) Instead of recommending trying to match the tile, regarding the stall shower pan replacement, which is required, it was recommended to replace the tile with a standard grade tile.
- 2) It failed to report the full extent of the evidence of drywood termites and drywood termite damage in the attic.
- 3) It failed to report the evidence of drywood termites, drywood termite damage and decay fungi damage at a garage door jambs.
- 4) It failed to report the substandard repair work completed at the garage eaves.
- 5) It failed to report the inaccessible area at the garage eaves.
- 6) It failed to report the decay fungi damage at the covered patio ledger.
- 7) It failed to report the evidence of drywood termites and drywood termite damage at the water heater cabinet roofing.
- 8) If failed to report the decay fungi damage at the exterior wood trim, adjacent to the French doors.
- 9) It failed to report the evidence of subterranean termites and subterranean termite damage in the house eaves.
- 10) It failed to report the full extent of the evidence of drywood termites and drywood termite damage in the house and garage eaves.
- 11) Instead of recommending the reported termite and decay fungi damage be replaced with like-for-like materials, which is required, it was recommended the damage be replaced with today's available materials.
- 12) The inspection report, since it corrected, added or modified information is a previous inspection report, should have been a "supplemental," separated" inspection report.

35. In that the Respondents were unable to obtain a Board approved inspection report, the homeowner contacted another licensee to inspect the property and prepare a report.

36. On or about April 11, 2014, Americana Termite Company, Inc. (Americana) performed an inspection of the property at the request of the new property owner. The WDO

1 inspection and inspection report contained 34 findings and recommendations and numerous notes  
2 with a partial work authorization cost of \$5,425.00. Additional, subsequent contractor estimates  
3 to complete the repairs/replacements on the property are approximately \$39,225.00. Respondents  
4 turned the matter over to their insurance carrier.

5 37. On or about August 11, 2014, the Board inspector completed a Wood Destroying  
6 Organisms Activity Search (WDO Activity Search) on the property. The results of the WDO  
7 Activity Search disclosed the Respondent failed to file one of its 3/24/2014 "complete,"  
8 "separated" inspection reports with the Board. In addition, the completion notice filed with the  
9 Board indicated that Respondent's work performed on the property was completed on 8/31/2013,  
10 instead of 8/30/2013 as was stated on the completion notice.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Failure to Complete Contracted Work)**

13 38. Respondents' licenses are subject to disciplinary action under section 8638, in that  
14 Respondents failed to complete the work, regarding the replacement of the reported drywood  
15 termite damage at the exterior of the garage in the August 13, 2013, erroneously dated August 13,  
16 2012 inspection report as being completed on the August 30, 2013 certified completion notice.  
17 Drywood termite damage remained at the reported area.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Departures From Accepted Trade Standards)**

20 39. Respondents' licenses are subject to disciplinary action under section 8635, in  
21 conjunction with CCR section 1937.14, in that Respondents departed from or disregarded plans or  
22 specifications in material respects, specifically the damage reported on its inspection report, and  
23 completion notice, as follows:

24 a. Regarding the replacement of the reported drywood termite damage at the water  
25 heater cabinet, the replaced rafter tail and rafter trim are not properly cut and/or properly installed  
26 and/or properly nailed and/or properly primed and painted.

27 b. Regarding the reported decay fungi damage at the exterior of the garage, the damage  
28 was not replaced as recommended; it was patched. Patching decay fungi damage is not permitted.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Issue Proper Completion Notice)**

3 40. Respondents' licenses are subject to disciplinary action under section 8518, in  
4 conjunction with CCR section 1996.2, in that Respondent failed to issue a proper completion  
5 notice, as follows:

6 a. The completion notice failed to report whether the faulty grade condition at the garage  
7 (nta), reported on the inspection report, had been completed or not.

8 b. The completion notice contains the incorrect date of the corresponding inspection  
9 report; August 13, 2012, instead of August 13, 2013.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Failure to File WDO Activities with the Board)**

12 41. Respondents' licenses are subject to disciplinary action under section 8516,  
13 subdivision (b), for violations of CCR section 1996.3, regarding the filing of WDO activities with  
14 the Board.

15 a. CCR section 1996.3, subdivision (a). Respondents failed to file one of its March 24,  
16 2014 "completed," "separated" inspection reports with the Board.

17 b. CCR section 1996.3, subdivision (b)(4). Respondents failed to accurately file its  
18 WDO activities with the Board, when it indicated the work at the property was completed on  
19 August 31, 2013, instead of August 30, 2013, as stated on the completion notice.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with Codes and Regulations - Improper Inspection)**

22 42. Respondent Allen's license is subject to disciplinary action under section 8641, in that  
23 regarding to the inspection report<sup>1</sup> on the property, Respondent failed to comply with provisions  
24 of the sections and CCR, as follows:

25 1) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (b)(3) and (e).  
26 Respondent failed to report the cellulose debris and form board in the substructure.

27 <sup>1</sup> Inspection report references in this cause for discipline reference the August 13, 2013  
28 "complete," "separated" inspection report, unless otherwise noted.



2) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(3)(4) and (e).  
Respondent failed to report the full extent of the evidence of drywood termites and drywood termite damage.

3) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (b)(5) and (e).  
Respondent failed to report the evidence of an excessive moisture condition (plumbing leak) in the substructure, along the back wall.

4) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (b)(5) and (e).  
Respondent failed to report the evidence of an excessive moisture condition (water stains) in the substructure, below the kitchen.

5) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (b)(5) and (e).  
Respondent failed to report the evidence of an excessive moisture condition (deteriorating foundation) in the substructure.

6) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(3) and (e).  
Respondent failed to report the full extent of the evidence of drywood termites in the attic.

7) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(4) and (e).  
Respondent failed to report the drywood termite damage in the attic.

8) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivision (d). Respondent failed to report the inaccessible attic area, due to construction.

9) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(3)(4) and (e).  
Respondent failed to report the full extent of the evidence of drywood termites and/or drywood termite damage in the garage.

10) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(4) and (e).  
Respondent failed to report the full extent of the dry rot (decay fungi damage) at the garage.

11) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivision (d). Respondent failed to report the inaccessible area at the garage eaves, above the attached patio.

12) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(3)(4) and (e).  
Respondent failed to report the full extent of the evidence of drywood termites and drywood termite damage at the covered patio.

1       13) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(4) and (e).

2       Respondent failed to report the decay fungi damage at the covered patio.

3       14) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(3)(4) and (e).

4       Respondent failed to report the evidence of drywood termites and/or drywood termite damage at  
5       the Jacuzzi below the covered patio.

6       15) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(4), (b)(5) and

7       (e). Respondent failed to report the decay fungi damage and the evidence of an excessive  
8       moisture conditions (water stains) at the patio framing header beam.

9       16) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(3)(4) and (e).

10       Respondent failed to report the evidence of drywood termites and drywood termite damage at the  
11       enclosed patio.

12       17) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(4) and (e).

13       Respondent failed to report the decay fungi damage at the enclosed patio.

14       18) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivision (d). Respondent

15       failed to report the inaccessible area at the enclosed patio eaves, due to boxed eaves.

16       19) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(3)(4) and (e).

17       Respondent failed to report the evidence of subterranean termites and subterranean termite  
18       damage at the framing on the exterior of the house.

19       20) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(3)(4) and (e).

20       Respondent failed to report the full extent of the evidence of drywood termites and drywood  
21       termite damage at the exterior framing on the house.

22       21) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(4) and (e).

23       Respondent failed to report the decay fungi damage at the exterior framing on the house.

24       22) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (b)(5) and (e).

25       Respondent failed to report the evidence of an excessive moisture condition (water damage) at  
26       the exterior framing on the house.

27       23) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (b)(5) and (e).

28       Respondent failed to report the evidence of an excessive moisture condition (water stains) in the

1 water heater cabinet.

2 24) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivision (d). Respondent  
3 failed to report the inaccessible attic area at the water heater cabinet, due to construction.

4 25) Section 8516, subdivisions (b)(6)(7)(10), and CCR 1990, subdivisions (b)(5) and (e),  
5 and 1991, subdivision (a)(5). Respondent failed to make a proper finding and recommendation  
6 regarding the reported decay fungi damage. Respondent failed to identify the excessive moisture  
7 condition responsible for the infections, and the recommendations failed to include a  
8 recommendation to correct the excessive moisture condition responsible for the infections.

9 26) Section 8516, subdivisions (b)(10), and CCR 1991, subdivision (a)(8). Respondent  
10 failed to make a proper recommendation regarding the reported evidence of drywood termites.  
11 The recommendations failed to include a recommendation to remove or cover the accessible  
12 evidence of infestation.

13 27) Section 8516, subdivision (b)(1), and CCR 1990, subdivision (a). Respondent failed  
14 to issue a proper inspection report.

15 28) Section 8516, and CCR 1993, subdivision (e). Respondent failed to issue a  
16 "reinspection" inspection report, regarding the reported excessive moisture condition at the stall  
17 shower. It was incorrectly reported on the completion notice that the excessive moisture  
18 condition was completed by others. The stall shower pan continued to leak.

19 29) Section 8619 and CCR 1996.1, subdivision (c). Respondent failed to indicate where  
20 the inspection tag was posted, and whether any other tags posted within the last two years were  
21 noted on the September 3, 2013 "supplemental," "separated" inspection report.

22 30) Section 8516, subdivision (c), and CCR 1990, subdivision (f). Respondent failed to  
23 issue a proper inspection report. The cellulose debris, form boards, plumbing leak and excessive  
24 moisture condition in the substructure, and the stall shower pan leak were incorrectly categorized  
25 as Section I findings and recommendations, instead of Section II findings and recommendations.

26 31) Section 8516, subdivision (b)(10). Respondent failed to make a proper  
27 recommendation regarding the stall shower pan leak. Instead of recommending to try and match  
28 the existing tile, which is required, it was recommended to replace the tile with a standard grade

1 tile.

2 32) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(3) and (e).

3 Respondent failed to report the full extent of the evidence of drywood termites and drywood  
4 termite damage in the attic.

5 33) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(3)(4) and (e).

6 Respondent failed to report the evidence of drywood termites, drywood termite damage and  
7 decay fungi damage at the garage door jamb.

8 34) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivision (e). Respondent

9 failed to report the substandard repair work complete at the garage eaves and water heater  
10 cabinet roofing.

11 35) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(4) and (e).

12 Respondent failed to report the decay fungi damage at the covered patio ledger.

13 36) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(4) and (e).

14 Respondent failed to report the decay fungi damage at the exterior framing on the house.

15 37) Section 8516, subdivisions (b)(6)(7), and CCR 1990, subdivisions (a)(3)(4) and (e).

16 Respondent failed to report the full extent of the evidence of drywood termites and/or drywood  
17 termite damage in the house and garage eaves.

18 38) Section 8516, subdivision (b)(10). Respondent failed to make a proper

19 recommendation regarding the reported drywood termite and decay fungi damage. Instead of  
20 recommending the reported damage be replaced with like-for-like materials, which is required, it  
21 was recommended the damage be replaced with today's available materials.

22 39) Section 8516 and CCR 1993, subdivision (d). Respondent failed to issue a proper

23 inspection report. The revised March 24, 2014 "complete," "separated" inspection report, since it  
24 corrected, added or modified information in a previous inspection report, should have been a  
25 "supplemental," "separated" inspection report.

26 ///

### 27 OTHER MATTERS

28 43. Pursuant to section 8624, if Operator License No. OPR 11055, issued to respondent is

1 suspended or revoked, the Board may suspend or revoke the registration of any branch office  
2 registered under the name of Spencer David Allen.

3 44. Pursuant to section 8624, the causes for discipline established as to respondent  
4 Reliable Termite Control likewise constitute cause for discipline against Spencer David Allen  
5 regardless of whether Spencer David Allen had knowledge of or participated in the acts or  
6 omissions which constitute cause for discipline against respondent Reliable Termite Control.

7 45. Pursuant to section 8624, if Operator License No. OPR 11055 issued to respondent is  
8 suspended or revoked, the Board may suspend or revoke Company Registration Certificate No.  
9 PR 5413, issued to Reliable Termite Control.

10 46. Pursuant to section 8654, if discipline is imposed on Operator License No. OPR 11055  
11 issued to respondent, Spencer David Allen shall be prohibited from serving as an officer, director,  
12 associate, partner, qualifying manager, or responsible managing employee for any registered  
13 company during the time the discipline is imposed, and any registered company which employs,  
14 elects, or associates Spencer David Allen shall be subject to disciplinary action.

15 47. Section 8622 provides that respondent shall submit an inspection fee of not more than  
16 \$125. If a reinspection is necessary, a commensurate reinspection fee shall be charged.

17 48. Section 8620 provides that a respondent may request that a civil penalty of not more  
18 than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days, or not more than \$10,000  
19 for an actual suspension of 20 to 45 days. Such request must be made at the time of the hearing  
20 and must be noted in the proposed decision. The proposed decision shall not provide that a civil  
21 penalty shall be imposed in lieu of a suspension.

## 22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
24 and that following the hearing, the Structural Pest Control Board issue a decision:

25 1. Revoking or suspending Company Registration Certificate No. PR 5413 in Branch 3,  
26 termite control, issued to Reliable Termite Control, Spencer David Allen, Owner and Qualifying  
27 Manager;

28 2. Revoking or suspending Operator License No. OPR 11055 in Branch 3, termite

1 control, issued to Spencer David Allen;

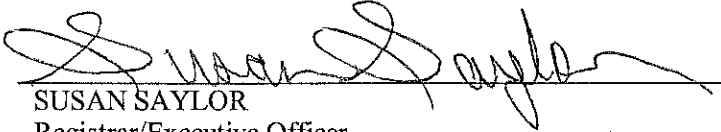
2 3. Prohibiting Spencer David Allen from serving as an officer, director, associate,  
3 partner, qualifying manager or responsible managing employee of any registered company during  
4 the period that discipline is imposed on Operator License No. OPR 11055, issued to Spencer  
5 David Allen;

6 4. Ordering Spencer David Allen to pay restitution as a condition of probation in the  
7 event probation is ordered;

8 5. Ordering Spencer David Allen, individually and dba Reliable Termite Control, to pay  
9 the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this  
10 case, pursuant to Business and Professions Code section 125.3; and

11 6. Taking such other and further action as deemed necessary and proper.

12  
13  
14  
15 DATED: 11/4/14

  
SUSAN SAYLOR  
Registrar/Executive Officer  
Structural Pest Control Board  
Department of Consumer Affairs  
State of California  
Complainant

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